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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,650	03/18/2004	Charles M. Sweeney	692-38	5333
28249	7590	08/24/2005	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			PHAM, LAM P	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/803,650

Applicant(s)

SWEENEY, CHARLES M.

Examiner

Lam P. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-8, 10-15 and 17 is/are rejected.
7) ☐ Claim(s) 9, 16 and 18-21 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/5/2004.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 17-20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what the word "invalid chair" means without any description or definition for the terms in the specification.

The term "invalid" according to Merriam-Webster's Collegiate Dictionary means sick or disabled or without foundation. The examiner will treat the term "invalid chair" as wheelchairs or folding chairs.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 6, 7, 10, 14, 17 rejected under 35 U.S.C. 102(e) as being anticipated by **Marquis et al.** (US 2003/0169175).

Regards claims 1, 10, 17, Marquis disclose an apparatus for providing an alarm when a wheelchair or invalid chair occupant leaves a seat of the chair, comprising:

a monitor (44) to be positioned beneath or within the seat when the monitor is secured to the wheelchair via opposing edges of the monitor;

a top of the monitor for contacting an underside of the seat or the seat when the monitor is secured to the wheelchair or the frame (28, 30) of the chair; and

an internal spring (68) for pushing the top (64) of the monitor apart from a bottom of the monitor, wherein a spring force of the internal spring is overcome by the occupant occupying the seat and the alarm is provided when the occupant leaves the seat as seen in Figures 1-3; [0013] to [0022].

Regards claim 6, Marquis disclose the top of the monitor slightly pushes against the underside of the seat when the monitor is secured to the wheelchair as seen in figure 1.

Regards claims 7 and 14, Marquis disclose the monitor is secured to wheelchair via straps threaded through the openings at opposing edges of the monitor, and the straps are adjustable in length to allow the monitor to be attached to different size wheelchairs as seen in [0015] and [0017].

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5, 11-13 rejected under 35 U.S.C. 103(a) as being unpatentable over **Marquis**.

Regards claim 2, Marquis disclose further comprising an internal circuit having a switch held open by the spring force when the occupant is seated and that provides a signal when the switch closes when the occupant rises from the seat;

a speaker (42) for outputting the alarm upon receipt of the signal from the internal circuit;

a remote switch (62) to turn the monitor on/off as seen in Figures 1-3; [0014], [0019] to [0022].

However, Marquis fail to disclose an input jack for connecting the remote switch. Since Marquis disclose the remote switch may be integrated into the monitor housing (66), becoming a local switch, or the alarm housing (43) or maybe provided as a separate component, it would have been obvious to one of ordinary skilled in the art to realize the remote switch connect to the alarm system via wired connection would require an input jack for connecting the remote switch for convenience. The local switch provide local on/off switch for the alarm, thus one of ordinary skilled in the art would desire to have a local on/off switch in addition to the remote switch for locally turning the apparatus.

Regards claim 3, Marquis disclose further comprising adjustable attachment means (clip) for attaching the remote switch to the wheelchair, to allow the remote switch to be moved out of the occupant's reach as seen in Figure 1; [0014] and [0022].

Regards claim 4, Marquis disclose the alarm can be silenced by operation of the remote switch, and a subsequent occupying of the wheelchair will reset the monitor, thereby allowing the alarm to again sound after the occupant leaves the chair, without having to arm the alarm again as seen in [0020] to [0022].

Regards claim 5, Marquis disclose the remote switch is one of a rocker type switch, a plunger type switch, a toggle switch or a flip switch as seen in figure 1.

Regards claim 11, Marquis disclose further comprising an internal circuit having a switch held open by the spring force when the occupant is seated and that provides a signal when the switch closes when the occupant rises from the seat;

a speaker (42) for outputting the alarm upon receipt of the signal from the internal circuit;

a remote switch (62) that is attachable to multiple locations on the wheelchair, to allow the remote switch to be moved out of the occupant's reach as seen in Figures 1-3; [0014], [0019] to [0022].

However, Marquis fail to disclose an input jack for connecting the remote switch. Since Marquis disclose the remote switch may be integrated into the monitor housing (66), becoming a local switch, or the alarm housing (43) or maybe provided as a separate component, it would have been obvious to one of ordinary skilled in the art to realize the remote switch connect to the alarm system via wired connection would require an input jack for connecting the remote switch for convenience. The local switch provide local on/off switch for the alarm, thus one of ordinary skilled in the art would

desire to have a local on/off switch in addition to the remote switch for locally turning the apparatus.

Regards claim 12, Marquis disclose the alarm can be silenced by operation of the remote switch, and a subsequent occupying of the wheelchair will reset the monitor, thereby allowing the alarm to again sound after the occupant leaves the chair, without having to arm the alarm again as seen in [0020] to [0022].

Regards claim 13, Marquis disclose the remote switch is one of a rocker type switch, a plunger type switch, a toggle switch or a flip switch as seen in figure 1.

7. Claim 8, 15 rejected under 35 U.S.C. 103(a) as being unpatentable over **Marquis** in view of **Olson** (US 6847301).

Regards claim 8, Marquis fails to disclose the internal circuit delays output of the signal by a preset or selectable dead-band to reduce nuisance alarms caused by a shift in weight by the occupant.

Olson in "Patient position monitoring device" teach of a pressure sensitive pad (10) and the pad is placed beneath a patient who is lying in bed or sitting in a chair. When an occupant's weight is removed from the pad, there is a short delay before an alarm (26) sounds so as to minimize the potential for false alarm caused by a shift in weight by the occupant as seen in Figures 1, 3; col. 3, lines 38-49.

In view of Olson teaching in the same field of invention, it would have been obvious to one of ordinary skilled in the art to incorporate a delay output of the alarm by a preset amount in order to reduce potential false alarms caused by a shift in weight by the occupant.

Regards claim 15, Referring to claim 8 for explanation.

Allowable Subject Matter

8. Claims 9, 16, 18-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lam P. Pham whose telephone number is 571-272-2977. The examiner can normally be reached on 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery A. Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lam Pham
August 17, 2005



JEFFERY HOFSSASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600